

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

MEETING OF THE
UNDERGROUND STORAGE TANK POLICY COMMISSION

Phoenix, Arizona
April 25, 2007
9:00 a.m.

Location: 1110 W. Washington
Room 250
Phoenix, Arizona

REPORTED BY:
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	TO BE HELD ON MAY23, 2007 AT 9:00,	
	IN ROOM 250 AT ADEQ LOCATED AT 1110	
19	WEST WASHINGTON, PHOENIX, ARIZONA	
20	13. ADJOURN	35

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1 COMMITTEE MEMBERS PRESENT:

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3 Gail Clement, Chair

4 Hal Gill, Vice-Chair

5 Michael O'Hara

6 Philip McNeely

7 Tamara Huddleston

8 Jon Findley

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1 P R O C E E D I N G S

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3 CHAIRPERSON CLEMENT: Good morning everybody,
4 welcome to the April 25th UST Policy Commission meeting.
5 We will call the meeting. We have a quorum here today
6 now.

7 First agenda item is approval of minutes from the
8 January 24th and February 28th meetings. Let's start with
9 January 24th. Did everybody --

10 MR. MC NEELY: You want to do roll call?

11 CHAIRPERSON CLEMENT: It's been a while. We will
12 have a roll call of the Commission Members starting with
13 Tamara.

14 MS. HUDDLESTON: Tamara Huddleston.

15 MR. MC NEELY: Philip McNeely.

16 MR. O'HARA: Mike O'Hara.

17 MR. GILL: Hal Gill.

18 CHAIRPERSON CLEMENT: Gail Clement.

19 MR. FINDLEY: Jon Findley.

20 CHAIRPERSON CLEMENT: Thanks. Keep us honest
21 here.

22 Okay. We will jump back to January 24th, 2007
23 meeting minutes. Did everybody receive those minutes?
24 Did everybody have a chance to review them? Any comments
25 discussions?

1 Is there a motion to approve the minutes?

2 MR. MC NEELY: I move to approve them.

3 CHAIRPERSON CLEMENT: Is there a second?

4 MS. HUDDLESTON: I second.

5 CHAIRPERSON CLEMENT: All in favor?

6 (Chorus of ayes.)

7 CHAIRPERSON CLEMENT: Opposed?

8 So the January 24th, 2007 meeting minutes are
9 approved.

10 Let's jump to the February 28th, 2007 meeting
11 minutes. Did everybody receive those? Did everybody have
12 a chance to review?

13 Any questions, discussion?

14 Is there a motion to approve the February 28th,
15 2007 meeting minutes?

16 MR. O'HARA: I will move we approve it.

17 CHAIRPERSON CLEMENT: Is there a second?

18 MR. GILL: I will second it.

19 CHAIRPERSON CLEMENT: All in favor?

20 (Chorus of ayes.)

21 CHAIRPERSON CLEMENT: Anyone opposed?

22 The February 28, 2007 meeting minutes have been
23 approved. Okay.

24 Let's move to the rules affecting the UST program
25 and also, Mr. McNeely, if you could go through the

1 statutory changes also. I didn't put that on there, but
2 we can consider that under the rules.

3 MR. MC NEELY: On the rules affecting the UST
4 program, we've been working on the NFA and MNA Rules. We
5 had two meetings, one in March and our last one was April
6 16th on Monday. The March meeting we sent out an outline
7 of bullets. We had a pretty good turnout of stakeholders.
8 We gave them about two weeks for comments. We only had a
9 couple of sets of comments, and they were very minimal.

10 On April 16, had a meeting with the first draft
11 of language, and we had a smaller turnout but still a
12 decent turnout, probably about 18 people from the public.
13 And now we've given a couple more weeks for comments on
14 the actual language. So far I don't think we received any
15 comments on the language, we're just proceeding forward.

16 In about, well, about a week, we will go ahead
17 and incorporate any comments we have, put it back out for
18 public comment, and plus put it to the Technical
19 Subcommittee and let them look at it.

20 So, Hal Gill wanted to have a meeting in May
21 sometime to actually look at it to get official comments
22 and move down that path. I think once the UST Policy
23 Commission gets through with their review, we can really
24 just put it forward for the formal comments period.

25 CHAIRPERSON CLEMENT: When do you anticipate the

1 formal comment period to be initiated?

2 MR. MC NEELY: We are thinking probably August
3 time frame. We sent an e-mail out. We actually asked for
4 the City of Tucson, DWR, SRP, because we wanted water
5 providers to show up. At the last meeting we had SRP
6 showed up. So, the City of Tucson did not show up.

7 Because we really think that in general most
8 people are pretty pleased with the rule, but I wanted to
9 make sure the water providers have ample opportunity to
10 comment on it.

11 CHAIRPERSON CLEMENT: Do you anticipate any early
12 input from the water providers, a lot of resistance or --

13 MR. MC NEELY: The City of Phoenix was all on
14 board, SRP was on board. There's really been very little
15 opposition.

16 CHAIRPERSON CLEMENT: Does the public have an
17 opportunity to get comments of both the draft rule and
18 your summary statement here?

19 MR. MC NEELY: It is on the website.

20 CHAIRPERSON CLEMENT: Okay.

21 MR. MC NEELY: And we post it within a couple of
22 days after the meeting. And we are going to e-mail it to
23 anybody who actually asks us to e-mail it.

24 Joe Drosendahl wants to make a comment.

25 MR. DROSENDAHL: That summary isn't on the

1 website, just the draft rule and the presentation is on
2 the website.

3 CHAIRPERSON CLEMENT: Is there any advantage to
4 the agency or the public to put the summary on the
5 website. Since you are having that here, maybe it would
6 be a good idea to have a complete package.

7 MR. DROSENDAHL: Sure.

8 MR. MC NEELY: So far I think it's really moving
9 along pretty well. It depends on what the UST Policy
10 Commission does. I think once the Policy -- because the
11 Policy Commission should have 30 days at minimum to look
12 at it and make recommendations, and if they want to
13 incorporate those. We are writing a preamble, an economic
14 impact statement. We're working on that right now. But
15 if there is no opposition, it will go through the
16 Governor's Regulatory Review Committee process, and so far
17 there is no indication of any opposition.

18 CHAIRPERSON CLEMENT: If we were to hold a
19 Technical Subcommittee in May, would you be able to
20 support that, Mr. Gill?

21 MR. GILL: Yeah, if there is anything to discuss,
22 if there is anyone that has any issues. I haven't heard
23 anything either.

24 CHAIRPERSON CLEMENT: I frankly have not had a
25 chance to review them, so I don't know if I have any

1 issues or if there are issues.

2 Let's tentatively, if we can suggest there will
3 be a Technical Subcommittee meeting then in May, and then
4 if we need to cancel that, we can go ahead and do that but
5 right now I'd rather have it on the calendar to give
6 yourselves a formal opportunity -- I mean a less formal
7 opportunity to receive comments.

8 MR. MC NEELY: Right.

9 CHAIRPERSON CLEMENT: And that's usually the
10 second?

11 MR. GILL: It's May 9th.

12 CHAIRPERSON CLEMENT: For everybody's
13 information, we are planning a Technical Subcommittee
14 meeting where we look at rules. This is a very formal
15 process in the full Commission, and what we like to do is
16 have a less formal process through the subcommittee so
17 that people can have interactive discussions and talk and
18 come up with comments then that will be formulated for the
19 full Policy Commission.

20 So right now the agenda would be for the MNA
21 draft rules on May 9th, 2007 and at the Technical
22 Subcommittee meeting.

23 MR. MC NEELY: Okay. Moving on to Item 3-B, the
24 Soil Remediation Level Rules and Training, we'd had --
25 those went through the Governor's Regulatory Review

1 Counsel in early March and they were unanimously approved.
2 There was no opposition at the hearing. They will be
3 effective May 5th.

4 This month on April 12th, Thursday, we had
5 training internally and for external stakeholders in
6 Phoenix, and on April 13th, Friday, we had training in
7 Tucson for internal DEQ staff and external. And we had
8 good turnouts. We had internally, it's amazing, really
9 almost every technical person, over a hundred people went
10 through. And externally we had about 40 in here in
11 Phoenix and about 20 in Tucson, so it was a pretty good
12 turnout.

13 So far it seems like there is no issues with the
14 rule. As of May 5th it will be effective, which means
15 people need to start looking at the new rules on May 5th,
16 but there is the applicability, it says if your site is
17 characterized before May 5th, you have three years to get
18 closure or actually to meet the conditions of closure,
19 then you can use the standards that are in the current
20 rules. So the way it's set up, we have an appendix A,
21 which is the new standards, and we have appendix B, which
22 is the standards we have today.

23 So the new rule is still effective May 5th, so
24 everything else applies, but you can use the current
25 standards up to three years, then after that everybody

1 will be on one standard.

2 CHAIRPERSON CLEMENT: That sounds good.

3 Is there any intention of the department to
4 reopen any sites or to impose the new standards based on
5 risk or anything like beyond what the rule states?

6 MR. MC NEELY: No. DEQ has never really had the
7 policy of opening new sites once you have the new rule.
8 What we say is we always have the right to open a site,
9 but we don't go looking for files, looking for reasons to
10 open it. What we will do is if there is a well that comes
11 up contaminated, or if there is some complaint or odor,
12 then we'll look into that at that time.

13 CHAIRPERSON CLEMENT: Thank you.

14 MR. MC NEELY: You are welcome.

15 For the other portion or for the ADEQ update, we
16 do have two statutory -- well, two bills to talk about,
17 Senate Bill 1310, which is the UST bill, was signed by the
18 governor last week, which means it actually went through
19 the house and the senate. There is only one no vote out
20 of all the committees and all of the house and the senate,
21 so it went right through.

22 The Governor signed it, which means that 90 days
23 from the end of the session it goes into effect, and we
24 are being told the session will probably go to early June
25 or late May, so the very earliest would probably be late

1 August, early September, Senate Bill 1310 goes into
2 effect.

3 There was a change in 1310 during the legislative
4 process that the TAP language, we were trying to define
5 what technical was. That language was taken out, so it's
6 the same as it is today. So, the two significant changes
7 -- the two only changes for Senate Bill 1310 are 10
8 percent. Every one has to pay the 10 percent co-pay now.
9 There is no option not to pay that.

10 And DEQ will only accept one SAF application per
11 calendar month. We put calendar month in there because
12 there were some issues about what if I have two in a month
13 so we put calendar month. We actually have two done, you
14 could it submit it on the 30th of one month and the first
15 of the next month.

16 CHAIRPERSON CLEMENT: That's per site?

17 MR. MC NEELY: That's per facility.

18 CHAIRPERSON CLEMENT: Per facility or per
19 release?

20 MR. MC NEELY: Per facility. Because on the
21 average, we have about 1.7, 1.8 releases per facility.

22 Now, we put one more on the bill in here we
23 haven't really been tracking, but it came to your
24 attention, House Bill 2208. This talks about public
25 bodies, public meetings. And it gives -- talks about if

1 you have a public body, which is what we are, you have to
2 have minutes recorded even at subcommittee meetings. And
3 it goes through what those minutes have to be, date, time
4 and place of the meeting, the members that are actually
5 present or absent, description of what matters were
6 considered. Then an accurate description of legal actions
7 proposed. And these minutes are supposed to be available
8 within three working days and put on the website, so I
9 think for our case, we don't actually have written minutes
10 available in three days, but we do have a recording, so
11 that would be available. That will be a change from what
12 we do in our subcommittees, though, because I don't think
13 we take minutes at subcommittees.

14 CHAIRPERSON CLEMENT: Not typically.

15 MR. GILL: Where did it come from?

16 MR. MC NEELY: This bill?

17 MR. GILL: Yes.

18 MR. MC NEELY: I really have no information on
19 this thing. It came to me -- Ron Kern found it and
20 brought it to my attention and I said, let's put it in
21 here, we will look. We can investigate it. It won't go
22 into effect before the next meeting so we can go in there
23 and try and figure out when where it came from and when.

24 CHAIRPERSON CLEMENT: Has it been signed, do you
25 know?

1 MR. MC NEELY: I don't know. It has been signed
2 by the --

3 CHAIRPERSON CLEMENT: This will definitely change
4 how we operate.

5 MR. MC NEELY: It could be where we just record
6 subcommittee meetings, then just have the tape recorder.

7 MR. MC NEELY: It would be.

8 MR. GILL: It would be way too difficult to take
9 notes.

10 CHAIRPERSON CLEMENT: You could just keep minutes
11 based on the decisions that we make or recommendations, I
12 guess, that would be what we would say out of
13 subcommittees versus so and so said, so and so said.

14 MR. MC NEELY: I think, you know, they outline
15 what you need, the minimum. It's really not that
16 specific, the date and time and people present, but then
17 the general description matters. I think it could be just
18 something like the MNA rules were considered.

19 MS. HUDDLESTON: You need a record of what
20 whoever made the motion and who seconded it.

21 MR. MC NEELY: We don't do that.

22 CHAIRPERSON CLEMENT: We haven't been doing that
23 in subcommittees because we haven't been calling them a
24 quorum meeting.

25 MS. HUDDLESTON: So how does that work, then?

1 CHAIRPERSON CLEMENT: They would become a quorum
2 meeting even if you don't have --

3 MS. HUDDLESTON: I don't think it's a quorum,
4 necessarily.

5 CHAIRPERSON CLEMENT: Because we don't vote, I
6 guess.

7 MR. MC NEELY: So really there would be no legal
8 action from attendees.

9 CHAIRPERSON CLEMENT: We do formulate
10 recommendations for the Policy Commission to vote.

11 MS. HUDDLESTON: It's deciding what a
12 recommendation is.

13 CHAIRPERSON CLEMENT: And that's usually a
14 consensus approach. It's not five people are in the room
15 take a vote. It's trying to build a consensus around
16 things which -- maybe one or two outlines. We could
17 phrase it that way, do you think?

18 MS. HUDDLESTON: I think so. We will have to
19 check with Lori.

20 CHAIRPERSON CLEMENT: We will work through this
21 and try to meet, certainly, the requirements. It may take
22 a little --

23 MR. GILL: That's the way it was done when we
24 were rewriting the work rules. There were a huge amount
25 of people and we arrived at a consensus, so it has been

1 done in a much more formal setting.

2 CHAIRPERSON CLEMENT: And if at all possible
3 maybe that next technical meeting?

4 MR. MC NEELY: We will talk to the AG's and try
5 to find out exactly what this means with us and
6 subcommittees.

7 MR. FINDLEY: It says either written minutes or
8 the recording. And then within ten days it has to be on
9 the website. Can you put a recording on the website?

10 MR. MC NEELY: That's a good question.
11 Technically we can do it. I'm not sure if we have the
12 space.

13 MR. FINDLEY: That could take up a lot of room.

14 CHAIRPERSON CLEMENT: Might have to set up a
15 secondary posting somewhere, some kind after zip up, you
16 know.

17 MR. FINDLEY: It might be much more efficient
18 just to do a written report and post it.

19 CHAIRPERSON CLEMENT: But the time frames are
20 very short, so not that we always meet short time frames
21 with this Commission, so, I mean that's going to be the
22 balance here.

23 Mr. Johnson?

24 MR. JOHNSON: What we've been doing with this
25 particular Commission is we have a recording to meet the

1 three-day requirement in case that comes up, but then we
2 transcribe the written minutes and Debbie gets those and
3 then those eventually then go on the web.

4 CHAIRPERSON CLEMENT: As long as the attorneys
5 are happy with it, I'm happy with it. It's certainly
6 attempting to meet the requirements of the law.

7 MS. HUDDLESTON: You don't have to -- no, I'm
8 sorry, misstatement.

9 MR. MC NEELY: We'll look into it. I think we
10 have a little bit of time.

11 CHAIRPERSON CLEMENT: Yes, I think so.

12 Anything else, Mr. McNeely?

13 MR. MC NEELY: Well, the program update -- one
14 negative thing to talk about is our AG, Barbara Pashkowski
15 left, Friday was her last day, so she was basically the
16 manager of all the SAF funded attorneys, and I think the
17 AG's office appointed an acting. They're probably looking
18 to replace her.

19 MS. HUDDLESTON: Joe Mikitish is acting, so we
20 lost another good person.

21 CHAIRPERSON CLEMENT: That's for sure. Where did
22 Barbara go to, Tamara?

23 MS. HUDDLESTON: Gust, Rosenfeld.

24 MR. MC NEELY: She went to work with another
25 attorney that we lost from WQARF, Marty Jones, a couple of

1 years ago, so Marty and Barbara.

2 MR. MC NEELY: That's the way it works.

3 CHAIRPERSON CLEMENT: And Friday was her last
4 day?

5 MR. MC NEELY: It was last Friday.

6 CHAIRPERSON CLEMENT: So she's gone.

7 MS. HUDDLESTON: She's gone.

8 CHAIRPERSON CLEMENT: If that's okay, I will send
9 her a thank you note from the Commission and me. I will
10 sign it from me. 'Cause I really do -- she was excellent.
11 Barbara Pashkowski for the record, I think, represented
12 the State of Arizona and the Attorney General's Office in
13 a lot of excellence. She was very exceptional. So that's
14 a disappointment.

15 MR. MC NEELY: It is. Besides that, in terms of
16 our hiring, we're looking pretty good, our staff. We
17 haven't had any turnover internally besides the AG's
18 office. That's all I have to report.

19 CHAIRPERSON CLEMENT: Okay. Find my agenda.
20 Then we are going to move to the UST Corrective Action
21 ADEQ update with Mr. Joe Drosendahl.

22 MR. DROSENDAHL: Yes, I'm Joe Drosendahl, the
23 manager of the Corrective Action Section.

24 In your packet, you have our numbers for February
25 and for March. They're pretty consistent with the

1 previous reports.

2 In regards to personnel, we do have one addition.
3 We now have a manager for the LUST Enforcement Unit, Eric
4 Wilson. Years ago Eric Wilson worked in the preventative
5 side of the program, so he definitely knows USTs, so it's
6 real good to have him.

7 CHAIRPERSON CLEMENT: Was he a hire out of DEQ or
8 was he a hire outside?

9 MR. DROSENDAHL: No. He was still within DEQ.
10 He was working in the Aquifer Protection programs.

11 CHAIRPERSON CLEMENT: Congratulations.

12 MR. DROSENDAHL: The Tier II status, right now
13 we're currently testing the software. We're hoping that
14 we've improved it and worked out the bugs -- knock on
15 wood.

16 And in regards to the Tier II questions that were
17 developed by the Technical Subcommittee, I've drafted my
18 initial responses, and I hope to get those finalized and
19 back to Hal soon.

20 I've also drafted a statement to put on the
21 bulletin board on our web regarding LUST sites that have
22 real old sampling data and how to -- you know, how people
23 should consider those data in regards to future
24 activities. That's been drafted.

25 CHAIRPERSON CLEMENT: When do you anticipate the

1 date for the software testing and availability?

2 MR. DROSENDAHL: We're hoping that this week
3 we'll be testing it to make sure that all the fixes have
4 actually fixed and hopefully we won't find additional, you
5 know, tweaks that need to be made, hoping within the next
6 month to get it back up there.

7 CHAIRPERSON CLEMENT: So that would mean that --
8 just to make it clear, you're just doing an internal
9 review process, internal corrections, then once that
10 you're satisfied, it will be available on the bulletin
11 board for the general public and the regulated community;
12 is that correct?

13 MR. DROSENDAHL: That's correct.

14 CHAIRPERSON CLEMENT: And you expect that to
15 occur within approximately one month, and I hope you meet
16 the time frame.

17 MR. DROSENDAHL: So do I.

18 CHAIRPERSON CLEMENT: It's been a long time
19 going.

20 MR. DROSENDAHL: Also in regards to the draft
21 FNA/MNA rules, like Phil said, we asked for written
22 comments by UST stakeholders by April 30th.

23 CHAIRPERSON CLEMENT: If the Policy Commission
24 members wanted to provide written documents independently,
25 they could be a part of that also, right?

1 MR. DROSENDAHL: That's correct.

2 CHAIRPERSON CLEMENT: And that was April 30th?

3 MR. DROSENDAHL: Yes.

4 CHAIRPERSON CLEMENT: Who should they be
5 addressed to, Mr. Drosendahl?

6 MR. DROSENDAHL: Either to me or to Phil, and
7 they could be e-mailed fax'd or mailed.

8 CHAIRPERSON CLEMENT: Thanks.

9 MR. MC NEELY: One thing about these MNA public
10 meetings, I always have to sort of figure out if we're
11 going to have an quorum of the UST Policy Commission show
12 up. If I do have a quorum, I have to have a joint UST
13 Policy Commission meeting -- it's a little odd, because I
14 don't feel I have the authority to be calling you, but I
15 have to put it out that way in the agenda, because if we
16 all show up, I don't want to have to say, hey, two of us
17 or five of us have to leave, or something.

18 So that's what I've been trying to do, but
19 hopefully you are okay with me putting it as a joint
20 meeting, because I don't have a choice, if we five or six
21 of us show up.

22 CHAIRPERSON CLEMENT: I don't think that is a
23 problem as long as you let me know ahead of time. One of
24 our problems has been timing on that. Like I typically
25 can't be responsive in 24 hours because I'm gone traveling

1 in the field and might not get my e-mails or phone
2 messages until the end of the day, so if you could give me
3 as much advance notice just so I'm aware of what's going
4 on, I don't think we have any other choice unless we want
5 try to do polls.

6 And the other option is for you or for myself to
7 call each or e-mail each Commission Member and see who's
8 planning on attending and then have to poll one.

9 Is there a preference there on how you want to
10 proceed or is there a legal issue on how we would want to
11 deal with that?

12 MR. MC NEELY: It would almost be easier if I
13 just e-mail the Policy Commission saying we're going to
14 have a public meeting on MNA rule on this day, just so I
15 know if six people are coming, then I have to post it as a
16 Policy Commission meeting.

17 CHAIRPERSON CLEMENT: Can you put that in as a to
18 do for you and your staff and that way they have heads up,
19 you will have a response, ask to have them RSVP whether
20 they're coming or not. Often it doesn't always work.

21 MR. MC NEELY: That is what I will try to do. I
22 feel a little awkward posting a joint UST Policy
23 Commission meeting. Joe is the one up there talking,
24 running the meeting.

25 CHAIRPERSON CLEMENT: If we don't have to do it

1 that way, I think we will all be better off, because we
2 don't -- the Policy Commission won't have any meeting
3 minutes, I won't know what's going on if I'm not at the
4 meeting or anything. So maybe if we could find out ahead
5 of time whether people are going to show up or not.

6 And then just so everybody is aware, I've got a
7 real tight calendar these days, so if you need something
8 from me, give me at least 24 hours' notice because I
9 cannot be more responsive than that. I try, but it's just
10 crazy right now, so, thanks.

11 Mr. Drosendahl?

12 MR. DROSENDAHL: That was it.

13 MR. MC NEELY: Okay.

14 CHAIRPERSON CLEMENT: Yes, Mr. Gill?

15 MR. GILL: Joe, so you will have some draft
16 language on both those issues before the next subcommittee
17 meeting?

18 MR. DROSENDAHL: I'm hoping that's the case.

19 MR. GILL: We will try to discuss that as well.

20 MR. DROSENDAHL: If not, then the next meeting.

21 CHAIRPERSON CLEMENT: Then the next update is the
22 State Assurance Fund with Mr. McNeely.

23 MR. MC NEELY: Sure. We have in your packets
24 March and -- or February and March statistics. We could
25 just jump straight to March. Skip February if you'd like.

1 In March 2007, you see in February we received 75
2 applications, we reviewed 117. In March we received 88
3 applications and reviewed 112. So, we've been
4 consistently hitting over a hundred applications to review
5 really this whole year.

6 As you can tell, our total number of applications
7 down at the bottom of the table is 212 in process and only
8 9 of those are over 90 days. So we're becoming very
9 efficient. And I think it has to do a lot with the new
10 forms and the new rules. Things are working pretty well
11 right now. There's not a whole lot of issues. It seems
12 like everybody understands how to fill them out and don't
13 really have a whole lot of problems right now.

14 If you go through the appeal process or the
15 appeals, in March -- well, actually, February and March,
16 informal appeal requests we had 25 in February requested,
17 we made determinations, 64 in February, which shows that
18 we're getting a backlog of appeals. And in March we had
19 37 new informal appeals that were made and we had 54
20 determinations, so that's a good sign, too.

21 Formal appeals, 6 in February, 9 in March, and we
22 made formal appeal determinations in February, 30 and 14
23 to go, so this just shows whatever backlog we have is not
24 significant.

25 CHAIRPERSON CLEMENT: Are you still using the OAH

1 hearings to type it in or are those pretty much falling
2 off the wayside?

3 MR. MC NEELY: We have a lot of formal appeals,
4 but really haven't had hearings. It seems like they
5 settle before they get to hearing.

6 CHAIRPERSON CLEMENT: That's good.

7 MR. MC NEELY: I know we have a couple coming up
8 shortly. I think in May we have one with TAP.

9 CHAIRPERSON CLEMENT: Because those are very
10 labor intensive for everybody.

11 MR. MC NEELY: Right.

12 So, in general, I think things are going well.

13 CHAIRPERSON CLEMENT: Okay. Sounds good.

14 MR. O'HARA: Could we request -- it doesn't have
15 to be at the next meeting, but maybe the fiscal year --
16 just some kind of status on the funds itself? I don't
17 think I've seen it in a couple of years, how much money is
18 in the fund, where the money is going, that's part of our
19 charge is to make recommendations on the balance of the
20 fund.

21 CHAIRPERSON CLEMENT: That's a good idea.

22 MR. MC NEELY: And I can do that. You have a
23 standing request, you know, if things are looking like
24 we're running out of funds or our balance is getting low,
25 let you guys know.

1 Currently we have about 47 million still in the
2 bank, because we received about 33 million last year. So
3 this year we're actually paying out more than we had in
4 any year. We're paying a lot more out than we're getting
5 in, but still we started this year with about 51 million,
6 so now we're down to about 37.

7 CHAIRPERSON CLEMENT: I'm sorry, go ahead.

8 MR. MC NEELY: And we have about 1400 releases.
9 Remember when Senate Bill 1310 came out in August 2004, we
10 had about 2300 releases, so we've closed about 900 --
11 actually more than 900. We opened some, too, but we
12 closed a third, a little bit more than a third, just about
13 40 percent, and we still have 47 million so we are doing a
14 pretty good job.

15 MR. O'HARA: I'm going back from my memory, it
16 seems like there was some discontinuation of the taxes --

17 CHAIRPERSON CLEMENT: There is a phaseout of the
18 collection of the monies for the State Assurance Fund.

19 MR. O'HARA: That goes to another source.

20 CHAIRPERSON CLEMENT: Then it goes to the MNA
21 Fund. Am I correct?

22 MR. MC NEELY: What happens is the petty tax
23 keeps going until June 30th, 2011, then at that point the
24 monies are transferred to the Hazardous Substance Fund,
25 and if it's \$60,000,000 that's transferred to the

1 Hazardous Substance Fund, that's when the penny a gallon
2 tax is sunset. So, the penny will keep going until 2011,
3 June 30, 2011.

4 There was a lot of talk this session at the
5 legislature about, can we use that money for highways, and
6 people started calling our budget office, how much money
7 do you have and why do you need this money. And we're
8 saying, we have the plan, you know, let the sunset take
9 its course, don't start looking at it now.

10 Because I still think there is going to be a lot
11 of work that needs to be done, and I think the
12 owner/operators and consultants out there are really
13 pushing hard to get these sites cleaned up, so it shows
14 this year we really have paid a lot of money out this
15 first nine months of the year.

16 CHAIRPERSON CLEMENT: Is that sufficient for your
17 interest?

18 MR. O'HARA: I don't want to create anything new,
19 but during the fiscal year, if we could see the annual
20 statement balance sheet, something already created.

21 CHAIRPERSON CLEMENT: That would be great. Maybe
22 as part of your updates every time we meet, if you could
23 just give us a fund balance similar to the few minutes you
24 spent on that.

25 MR. MC NEELY: I can do that. I can tell you,

1 you know -- and the fund is 30,000,000 in the non-Maricopa
2 and about 17,000,000 in Maricopa, so still it hasn't
3 really changed, the proportions haven't really changed.

4 MR. O'HARA: There is no issues, then, in terms
5 of payment; when a claim comes in, it's processed and
6 paid?

7 MR. MC NEELY: It's paid.

8 CHAIRPERSON CLEMENT: Okay. Great.

9 Any more other questions or comments? Thank you
10 very much.

11 The next agenda item is the Financial
12 Subcommittee update. There was no Financial Subcommittee.
13 Andrea has no update, so we can go on to the next agenda
14 item, which is the Technical Subcommittee update with Mr.
15 Gill.

16 MR. GILL: Thank you. We also did not have a
17 subcommittee meeting. And so the only thing I have to
18 report is that based on this meeting, it looks like we
19 will be having one on May 9th, 2007, to discuss the issues
20 with the new rules and also, if there is any new language
21 on the Tier II risk screens and also the old LUST
22 language, then we will discuss that as well.

23 CHAIRPERSON CLEMENT: Okay. Great. Anything
24 else? Any questions for Mr. Gill?

25 The next one is the status of the Policy

1 Commission Annual Report. This is a sore point with Gail
2 Clement every year that I have to write one.

3 I did not receive my materials until last Tuesday
4 from DEQ. I cannot turn things around that quickly to
5 have it ready in time for you to review for this meeting
6 and to vote on it.

7 And again, I just need right now enough time for
8 anything that you expect me to do. My goal would be to
9 turn that around and have a draft report for people to
10 review before our next Policy Commission, giving you all
11 enough time to actually read it and review it, make any
12 corrections, editorial type corrections, then hopefully we
13 can get it approved and voted on.

14 And I am going to push for a May meeting for two
15 reasons: The MNA rules and also I really need to get this
16 report out. It's an annual that's due as a statutory
17 obligation to the Governor's Office and the legislature,
18 so I regret that I'm not more timely on that, but we're
19 all dependent on one another.

20 Okay. The next agenda item is the status of the
21 Policy Commission member appointments, and let me just put
22 this in. The Policy Commission membership, many of the
23 people that are actually sitting and participating in
24 these meetings are no longer -- have no longer in their
25 current dates of appointment. So we are missing several

1 people that really aren't involved in the UST program very
2 much in Arizona anymore, so we need to, from my
3 perspective, get the Commission Members reappointed, new
4 Commission Members appointed, and then the issue of
5 participation and quorum, I think, will drop off.

6 So, Mr. McNeely, what is the status?

7 MR. MC NEELY: We did forward all the resumes
8 over to the Governor's Office. I've been talking to them
9 this week and they've been actually looking at them, going
10 through the Internet, making sure the applications have
11 been filed. And a few people, they had either lost them
12 or didn't get filed, so they've been calling and they said
13 by next week they should meet and make some decisions, so
14 I think maybe by May 23rd we actually may have new
15 appointments.

16 CHAIRPERSON CLEMENT: Great.

17 MR. MC NEELY: I'm not real clear if we can meet
18 at that point yet, because I think people have to have
19 ethics training. I'm not sure if there is a time frame
20 for new members typically.

21 MS. HUDDLESTON: I can double-check. I think
22 they have to have it the first year.

23 MR. MC NEELY: First year. Okay.

24 CHAIRPERSON CLEMENT: Within the year. It wasn't
25 like they could participate, I know that I participated

1 before the actual ethics training was scheduled.

2 MR. MC NEELY: And I think to get reappointed you
3 have to have your ethics training, so if anyone -- and the
4 reappointments, too, I think, Gail, you're expiring in
5 May, and so is Mike, and they brought that up saying some
6 people are expiring so I think --

7 CHAIRPERSON CLEMENT: We will need to talk.

8 MR. MC NEELY: Yes. Okay.

9 CHAIRPERSON CLEMENT: Okay. Great. That would
10 be wonderful to have a full Commission and participants
11 that are involved in the program and, thank you,
12 appreciate getting that done, and hopefully if it takes
13 much longer than May, because I was about ready to write a
14 letter say, help us, because we really do need the
15 membership.

16 MR. MC NEELY: Okay.

17 CHAIRPERSON CLEMENT: Good job. This is just
18 great. Summary of meeting minutes, action items. This is
19 going very quickly.

20 Okay. Let me go through this, see if I captured
21 everything.

22 The website access for the summary of the MNA
23 Rule will be added. ADEQ is going to research more
24 information regarding House Bill 2208 and its
25 implementation as it applies to the Policy Commission.

1 I am going to send a thank you note to Barbara
2 Pashkowski for her service through the years to the UST
3 Program and Commission.

4 Mr. Drosendahl is going to have a response
5 regarding the Tier II software and the LUST screens before
6 the next Financial Subcommittee meeting -- or not
7 Financial -- Technical Subcommittee meeting. There will
8 be a Technical Subcommittee meeting on May 9th to discuss
9 the MNA rules and any other technical issues that will be
10 available.

11 Mr. McNeely will provide a fund status verbal
12 update in a monthly update.

13 ADEQ will provide an end-of-year summary and the
14 financial status of the SAF.

15 I will draft the annual report and get that out
16 to the Policy Commission members within two weeks for
17 their review and comment.

18 And the Governor's Office is in the process of
19 reviewing and appointing new Policy Commission Members.

20 Did I miss anything else?

21 Great. Okay. Any agenda items that we want to
22 be sure we include on the next agenda from any Policy
23 Commission member?

24 MR. O'HARA: Can you do the general call first?

25 CHAIRPERSON CLEMENT: Thank you.

1 General call to the public? Are there any
2 comments from the general public?

3 MR. ALLEN: I need to. I'm the only general
4 public here.

5 CHAIRPERSON CLEMENT: Why don't you stand up and
6 give us your name.

7 MR. ALLEN: David Allen. I am here on a number
8 of levels. First, I guess I would say, first of all, I
9 attended the Earth Day meeting last Sunday, or heard Steve
10 Owens, and most importantly I met Michelle Adof. If you
11 saw the show, she's an older lady that's fired up in
12 Pittsburgh and she got me fired up. I was kind of fired
13 up with this.

14 Other reason I'm here, my family manufactures a
15 tie-down, an innovative rope tie-down in Mesa, quick and
16 easy, more safe and secure cargo.

17 So I've been putting it in place for government
18 sales, and I've kind of focused kind of on the Department
19 of Transportation, but then I kind of discovered you guys
20 on Sunday and I've been looking at this. It might be
21 something for spills, for cargo controls, load control
22 products. We've partnered up with phase III,
23 environmental products for smoke control. We have a
24 product call All Sponge that absorbs liquid spills from
25 gasoline, not just oil.

1 And when I first discovered this meeting and
2 looked at this, and saying the underground storage tanks,
3 layman's term, this is my first week, I'm just kind of
4 learning the basis of underground storage tanks language.
5 And, you know, maybe our products could be an advantage
6 here, so I'm mostly here to kind of observe and learn.

7 I did -- I was a little lost, because I printed
8 out, I think, acronyms and I did not see NFA or MNA. If
9 anybody could quickly define those for me.

10 CHAIRPERSON CLEMENT: Thank you, Mr. Allen.

11 The way that the call to the public works is we
12 can't, as an official Commission, comment or respond,
13 however, I think we can clarify acronyms if that would be
14 appropriate.

15 MR. GILL: Actually I was going to bring it up.
16 I didn't know if it was in the record or not.

17 CHAIRPERSON CLEMENT: Mr. Drosendahl.

18 MR. DROSENDAHL: Yes. NFA stands for No Further
19 Action, and MNA stands for Monitored Natural Attenuation.

20 CHAIRPERSON CLEMENT: Thank you.

21 MR. FINDLEY: Those are on the handout.

22 CHAIRPERSON CLEMENT: Are on the summary handout?

23 MR. FINDLEY: Yes. The full name with the
24 acronym are on the handout, correct.

25 CHAIRPERSON CLEMENT: Those of us who work every

1 day in these programs, these lingos become second nature,
2 and maybe in the future I should spell them out more
3 clearly in the agenda since this is a public meeting.

4 That might be a good idea. Okay.

5 Okay. Any agenda items that we want to be sure
6 we cover?

7 Oh, is there any other call to the public?

8 Any agenda items other than the MNA Rule that we
9 know we want to cover? We definitely want to know more
10 about the house bill.

11 MR. MC NEELY: Right.

12 CHAIRPERSON CLEMENT: Okay. We will be sure
13 those are included on the next agenda.

14 The next Policy Commission is scheduled for May
15 23rd, 2007 at 9 a.m. Room 250 at ADEQ, 1110 West
16 Washington, which is where you're at right now. So if you
17 found it today you can find it next month.

18 Thank you everybody for coming and participating.
19 And we will adjourn the UST Policy Commission meeting.
20 Thank you.

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22 (9:54 a.m.)

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C E R T I F I C A T E

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I HEREBY CERTIFY that the proceedings had
upon the foregoing hearing are contained in the shorthand
record made by me thereof and that the foregoing 35 pages
constitute a full true and correct transcript of said
shorthand record all done to the best of my skill and
ability.

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DATED at Phoenix, Arizona, this 25th day of
April, 2007.

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Deborah J. Worsley Girard
Certified Reporter
Certificate No. 50477

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